
IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

ALFREDO GARCIA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ORDER DENYING MOTION TO
VACATE SENTENCE UNDER 28
U.S.C. § 2255

Case No. 1:06-CV-00059 PGC

Petitioner Alfredo Garcia pleaded guilty to reentry of a removed alien and possession with the intent to distribute over 50 grams of methamphetamine. This court sentenced him to 180 months imprisonment for both charges, a sentence to which his counsel and the government stipulated.¹ The Tenth Circuit dismissed his appeal for lack of jurisdiction since he stipulated to the sentence.

Mr. Garcia now seeks relief from his sentence under 28 U.S.C. § 2255, claiming that he was denied effective assistance of counsel because his attorney failed to realize he was allegedly entitled to a three-level departure for acceptance of responsibility and failed to object to this error

¹See *United States v. Valenzuela-Garcia*, 1:03-CR-00124; *United States v. Valenzuela-Garcia*, 1:03-CR-00052.

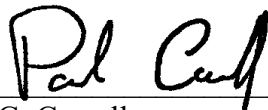
at sentencing. The court cannot accept Mr. Garcia's arguments. The efforts of Mr. Garcia's attorney on his behalf resulted in a fair and reasonable sentence and do not even come close to satisfying the two-part test for ineffective assistance of counsel established in *Strickland v. Washington*.²

The court therefore DENIES Mr. Garcia's motion to vacate his sentence under 28 U.S.C. § 2255 (Docket No. 1). The clerk's office is directed to close this case.

SO ORDERED.

DATED this 15th day of May, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul Cassell", written over a horizontal line.

Paul G. Cassell
United States District Judge

²466 U.S. 668, 688, 691–92 (1984).